

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY/TOWN OF \_\_\_\_\_, WASHINGTON,  
RELATING TO LAND USE AND ZONING, ADOPTING ZONING  
RESTRICTIONS ON THE CULTIVATION OF MEDICAL CANNABIS  
(MARIJUANA) FOR PERSONAL USE AND IN COLLECTIVE GARDENS,  
DESCRIBING THE LAND USE IMPACTS TRIGGERING SUCH  
RESTRICTIONS, IDENTIFYING THE PERMITTED ZONE FOR  
COLLECTIVE GARDENS AS THE \_\_\_\_ ZONE, ESTABLISHING  
SEPARATION AND DISTANCE REQUIREMENTS WITHIN THE  
PERMITTED ZONE, ESTABLISHING PROCEDURES FOR ENFORCEMENT  
OF VIOLATIONS INCLUDING ABATEMENT OF CANNABIS NUISANCES,  
REPEALING THE MORATORIUM ON MEDICAL MARIJUANA  
DISPENSARIES AND THE INTERIM ZONING ORDINANCE ON  
COLLECTIVE GARDENS, AMENDING \_\_\_\_\_ MUNICIPAL CODE  
SECTIONS \_\_\_\_\_.

---

WHEREAS, since 1970, federal law has prohibited the manufacture and possession of marijuana as a Schedule I drug, based on the federal government's categorization of marijuana as having a "high potential for abuse, lack of any accepted medical use, and absence of any accepted safety for use in medically supervised treatment." *Gonzales v. Raich*, 545 U.S. 1, 14 (2005), Controlled Substance Act (CSA), 84 Stat. 1242, 21 U.S.C. 801 et seq; and

WHEREAS, the voters of the State of Washington approved Initiative 692 (codified as RCW 69.51A in November 1998); and

WHEREAS, the intent of Initiative 692 was that qualifying "patients with terminal or debilitating illnesses who, in the judgment of their physicians, would benefit from the medical use of marijuana, shall not be found guilty of a crime under state law,"(RCW 69.51A.005), but that nothing in the law "shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of marijuana for non-medical purposes" (RCW 69.51A.020); and

WHEREAS, the Washington State Legislature passed ESSSB 5073 in 2011, which provides that a qualifying patient or his/her designated care provider are presumed to be in compliance, and not subject to criminal or civil sanctions/penalties/consequences, if they possess no more than 15 cannabis plants, no more than 24 ounces of usable cannabis (other qualifications apply); and

WHEREAS, Washington's Governor vetoed all of the provisions relevant to medical marijuana dispensaries in ESSSB 5073 but left the provisions relating to cultivation of marijuana for medical use by qualified patients individually and in collective gardens; and

WHEREAS, in the Governor's partial veto letter dated April 29, 2011, she stated that cooperative medical marijuana organizations should be exempted from state criminal penalties "conditioned on compliance with local government location and health and safety specifications" ( page 3), creating a need to balance the interests of federal law, Washington medical marijuana patients and the health, safety and welfare of the community, (*id.*); and

WHEREAS, RCW 69.51A.0002 permitted qualifying patients "to create and participate in collective gardens for the purpose of producing, processing, transporting, and delivering cannabis for medical use," provided no more than ten qualifying patients participate, a collective garden does not contain more than 15 plants per patient up to a total of 45 plants per garden, and the garden does not contain more than 24 ounces of useable cannabis per patient and up to a total of 72 ounces of useable cannabis; and

WHEREAS, under RCW 69.51A.060(1), it is a class 3 civil infraction to display medical cannabis in a manner or place which is open to view of the general public, which would include growing plants; and

WHEREAS, RCW 69.51A.130 allows local jurisdictions to adopt zoning requirements, business license requirements, health and safety requirements, and impose business taxes on the production, processing or dispensing of cannabis or cannabis products; and

WHEREAS, the City/Town adopted Ordinance \_\_\_\_, imposing a moratorium on medical marijuana dispensaries because it was predicted that the Washington State Legislature would address the subject during the 2012 Legislative Session; and

WHEREAS, the City/Town adopted Ordinance \_\_\_\_, adopting interim zoning regulations on collective gardens; and

WHEREAS, during the month of February 2012, it was learned that the Washington State Legislature would not be adopting any new regulations on medical marijuana; and

WHEREAS, on February 21, 2012, the City/Town Council allowed Ordinance \_\_\_\_ to expire; and

WHEREAS, Ordinances \_\_\_\_ and \_\_\_\_ require formal action by the Council to terminate the moratorium and interim zoning ordinance; and

WHEREAS, the Council believes that the Governor's veto of the provisions in ESSSB 5073 on the subject of medical marijuana dispensaries should be interpreted to mean that this use is prohibited by state law, and it is already prohibited under federal law; and

WHEREAS, the Council has studied the land use and other secondary impacts of cultivation of cannabis for medical use by individuals and in collective gardens, and has now drafted a zoning ordinance to address these impacts<sup>1</sup>; and

WHEREAS, the SEPA Responsible Official issued a threshold decision for this draft ordinance on \_\_\_\_\_, 201\_, which was/was not appealed; and

WHEREAS, on \_\_\_\_\_, the Planning Commission held a public hearing on the draft zoning ordinance; and

WHEREAS, the Planning Commission recommended approval of the draft zoning ordinance to the Council; and

WHEREAS, on \_\_\_\_\_, the Council considered the draft zoning ordinance during its regular meeting; and

WHEREAS, the Council decided to adopt the draft zoning ordinance and to formally repeal the interim zoning ordinance on medical cannabis collective gardens (Ordinance No. \_\_\_\_\_);

NOW THEREFORE, the City/Town Council of the \_\_\_\_\_ of \_\_\_\_\_ do ordain as follows:

Section 1. Formal Repeal of Interim Zoning Regulations and Moratorium. Ordinance \_\_\_\_\_, moratorium on medical cannabis dispensaries and Ordinance No. \_\_\_\_\_, interim zoning regulations for medical cannabis collective gardens, are hereby repealed.

Section 2. A new chapter 25.03 is hereby added to the \_\_\_\_\_ Municipal Code, which shall read as follows:

## **MEDICAL CANNABIS CHAPTER \_\_.03**

### **Sections:**

- \_\_.03.001 Findings.**
- \_\_.03.002 Definitions.**
- \_\_.03.003 Applicability.**
- \_\_.03.004 Restrictions on Medical Cannabis for Personal Use.**
- \_\_.03.005 Restrictions on Collective Gardens.**
- \_\_.03.006 Violations.**

---

<sup>1</sup> Under RCW 36.70A.106, a city or town planning under GMA must also send a copy of the draft ordinance to the State Department of Commerce.

**\_\_\_03.001 Findings.** The Council adopts all of the “whereas” sections of this Ordinance as findings to support this Chapter, as well as the following:

A. Through its amendment/adoption of chapter RCW 69.51A, the State of Washington has found that there is medical evidence to show that some patients with terminal or debilitating medical conditions benefit from the medical use of cannabis.

B. The State of Washington has determined that qualifying patients with terminal or debilitating medical conditions, who, in the judgment of their health care professionals, may benefit from the medical use of cannabis, shall not be arrested, prosecuted or subject to other criminal sanctions or civil consequences under state law, based solely on their medical use of cannabis, notwithstanding any other provision of law.

C. Nothing in this chapter 25.03 shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of cannabis for nonmedical purposes. Nothing in this chapter 25.03 shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of cannabis for nonmedical purposes.

D. Cannabis plants, whether grown indoors or outdoors, especially as they mature prior to harvest, may produce a distinctive odor that may be detectable far beyond property boundaries.

E. Where cannabis plants have been grown outdoors in other states, local authorities have received a significant number of formal complaints of odor that may be detectable far beyond property boundaries.<sup>2</sup>

F. Cannabis, whether grown for medicinal purposes or diverted to the black market, may be sold for thousands of dollars per pound.

G. The strong smell of cannabis may create an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery and armed robbery.

H. Cannabis that is grown indoors may require excessive use of electricity which may overload standard electrical systems, creating an unreasonable risk of fire.

I. The ability of qualified patients to cultivate cannabis in collective gardens for medical purposes does not confer upon them the right to create or maintain a public nuisance. No more than forty-five (45) cannabis plants are allowed on any one legal parcel, which should keep the complaints regarding odor and the risks of fire and crime to a minimum.

J. Pursuant to RCW 69.51A.130, no civil or criminal liability may be imposed by any court on cities, towns, or counties or other municipalities and their officers and employees for actions taken in good faith under this chapter and within the scope of their assigned duties.

---

<sup>2</sup> Section 9.31.020(E), Medical Marijuana Cultivation, Mendocino County Code, Mendocino County, California.

**00.01.002 Definitions.** For purposes of this chapter, the following definitions apply:

A. "Cannabis" means all parts of the plant *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. For the purposes of this ordinance, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted there from, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term "cannabis" includes cannabis products and useable cannabis.

B. "Cannabis products" means products that contain cannabis or cannabis extracts, have a measurable THC concentration greater than three-tenths of one percent, and are intended for human consumption or application, including, but not limited to, edible products, tinctures, and lotions. The term "cannabis products" does not include useable cannabis. The definition of "cannabis products" as a measurement of THC concentration only applies to the provisions of this ordinance and shall not be considered applicable to any criminal laws related to marijuana or cannabis.

C. "Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

D. "Collective Garden" means those gardens authorized under RCW 69.51A.085, which allows qualifying patients to assume responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use such as, for example, a location for a collective garden; equipment, supplies, and labor necessary to plant, grow, and harvest cannabis; cannabis plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of cannabis plants (as limited below). Qualifying patients may create and participate in collective gardens for the purpose of producing, processing, transporting and delivering cannabis for medical use subject to the following conditions:

- (1) No more than ten qualifying patients may participate in a single collective garden at any time;
- (2) A collective garden may contain no more than fifteen plants per patient up to a total of forty-five plants;
- (3) A collective garden may contain no more than twenty-four ounces of usable cannabis per patient up to a total of seventy-two ounces of usable cannabis; and
- (4) A copy of each qualifying patient's valid documentation or proof of registration with the registry established in state law (now or in the future), including a copy of the patient's proof of identity, must be available at all times on the premises of the collective garden; and
- (5) No usable cannabis from the collective garden may be delivered to anyone other than one of the qualifying patients participating in the collective garden.

E. "Cultivation" means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.

F. "Designated care provider" means a person who:  
(1) Is eighteen years of age or older;  
(2) Has been designated in ((writing)) a written document signed and dated by a qualifying patient to serve as a designated provider under this ordinance and RCW 69.51A; and  
(3) Is in compliance with the terms and conditions set forth in RCW 69.51A.040.  
A qualifying patient may be the designated provider for another qualifying patient and be in possession of both patients' cannabis at the same time.

G. "Indoors" means within a fully enclosed and secure structure that complies with the Washington State Building Code, as adopted by the City/Town, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" by 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

H. "Legal parcel" means a parcel of land for which one legal title exists. Where contiguous legal parcels are under common ownership or control, such legal parcels shall be counted as a single parcel for purposes of this ordinance.

I. "Medical (or medicinal) use of cannabis" means the manufacture, production, processing, possession, transportation, delivery, ingestion, application, or administration of cannabis for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating medical condition.

J. "Outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined herein.

K. "Person" means an individual or an entity.

L. "Personally identifiable information" means any information that includes, but is not limited to, data that uniquely identify, distinguish, or trace a person's identity, such as the person's name, or address, either alone or when combined with other sources, that establish the person is a qualifying patient or designated provider.

M. "Plant" means an organism having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system shall be considered part of the same single plant.

N. "Process" means to handle or process cannabis in preparation for medical use.

O. "Produce" means to plant, grow, or harvest cannabis for medical use.

P. "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; premises where goods and services are offered to the public for retail sale; public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, buses, ferries, and other public conveyances of all kinds and character, and the depots, stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

Q. "Qualifying patient" means a person who:

1. Is a patient of a health care professional;
2. Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;
3. Is a resident of the state of Washington at the time of such diagnosis;
4. Has been advised by that health care professional about the risks and benefits of the medical use of cannabis;
5. Has been advised by that health care professional that he or she may benefit from the medical use of cannabis; and
6. Is otherwise in compliance with the terms and conditions established in chapter RCW 69.51A.

The term "qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this ordinance and RCW 69.51A are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.

R. "Residential treatment facility" means a facility providing for treatment of drug and alcohol dependency;

S. "School" means an institution of learning for minors, whether public or private, offering regular course of instruction required by the Washington Education Code, or any child or day care facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher learning, including a community or junior college, college or university.

T. "Terminal or debilitating medical condition" means:

1. Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or
2. Intractable pain, limited for the purpose of this ordinance to mean pain unrelieved by standard medical treatments and medications; or

3. Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or

4. Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or

5. Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or

6. Diseases, including anorexia, which result in nausea, vomiting, cachexia, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or

7. Any other medical condition duly approved by the Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery as directed in this chapter.

U. "THC concentration" means percent of tetrahydrocannabinol content per weight or volume of useable cannabis or cannabis product.

V. "Useable cannabis" means dried flowers of the *Cannabis* plant having a THC concentration greater than three-tenths of one percent. Useable cannabis excludes stems, stalks, leaves, seeds, and roots. For purposes of this subsection, "dried" means containing less than fifteen percent moisture content by weight. The term "useable cannabis" does not include cannabis products.

W. "Valid documentation" means:

1. A statement signed and dated by a qualifying patient's health care professional written on tamper-resistant paper, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of cannabis;

2. Proof of identity such as a Washington state driver's license or identicard, as defined in RCW 46.20.035; and

3. In the case of a designated provider, the signed and dated document valid for one year from the date of signature executed by the qualifying patient who has designated the provider.

X. "Youth-oriented facility" means elementary school, middle school, high school, public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. This shall not include a day care or preschool facility.

**\_\_03.003 Applicability.** No part of this chapter is intended to or shall be deemed to conflict with federal law, including but not limited to, the Controlled Substances Act, 21 U.S.C. Section 800 *et seq.*, the Uniform Controlled Substances Act (chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under either Act, or any other local, state or federal law, statute, rule or regulation.<sup>3</sup>

---

<sup>3</sup> See, *County of San Diego v. San Diego NORML*, 165 Cal. App.4<sup>th</sup> 798, 826, 81 Cal.Rptr.3d 461 (2006).



**\_\_\_.03.004      Restrictions on Medical Cannabis for Personal Use.<sup>4</sup>**

A      RCW 69.51A.040 allows an individual qualifying patient or designated provider to cultivate medical cannabis for personal use within his/her private residence, as long as the qualifying patient or designated provider:

1.      possesses no more than fifteen (15) cannabis plants;
2.      possesses no more than twenty-four (24) ounces of usable cannabis;
3.      possesses no more cannabis product than what could reasonably be produced with no more than twenty-four (24) ounces of usable cannabis; or
4.      possesses a combination of usable cannabis and cannabis produce that does not exceed a combination total representing possession and processing of no more than twenty-four (24) ounces of usable cannabis.

If a person is both a qualifying patient and a designated provider for another patient, RCW 69.51A.040 allows possession of no more than twice the amounts described in subsection (1) of this section, whether the plants, usable cannabis, and cannabis product are possessed individually or in combination between the qualifying patient and his or her designated provider. (This section does not list all of the limitations on such use in RCW 69.51A.040 or chapter 69.51A RCW. This section is only meant to provide sufficient information to distinguish between cultivation of medical cannabis for personal use, as opposed to cultivation of medical cannabis in a Collective Garden, and to establish certain land use restrictions on such cultivation.)

B.      Any cultivation of medical cannabis for personal use under chapter 69.51A RCW shall not exceed the following standards:

1.      The medical cannabis cultivation area shall not exceed fifty (50) square feet in length and not exceed ten (10) feet in height per residence.
2.      Medical cannabis cultivation lighting shall not exceed 1200 watts.
3.      Use of gas products (CO2, butane, etc.) for medical cannabis cultivation or processing is prohibited.
4.      Medical cannabis cultivation and sale is prohibited as a Home Occupation. Medical marijuana cultivation and sales is not considered an accessory use in residential zones.

---

<sup>4</sup> This section is intended to merely set forth the requirements of RCW 69.51A.040, in order to distinguish between the cultivation of medical cannabis for personal use from the cultivation of medical cannabis by qualifying patients in a collective garden. In addition, this section establishes some land use restrictions on the cultivation of medical cannabis by an individual or qualifying patient. If the Town is not interested in recognizing this use, this section may be deleted altogether.

5. From a public right of way, there shall be no exterior evidence of medical cannabis cultivation either within or outside the residence.

6. The qualified patient or designated provider shall reside in the residence where the medical cannabis cultivation occurs.

7. The qualified patient or designated provider cultivating cannabis for personal use shall not participate in any Collective Garden or other medical cannabis cultivation in any other residential location.

8. The residence shall maintain a kitchen, bathrooms, and primary bedrooms for their intended use and shall not be used primarily for medical cannabis cultivation.

9. The medical cannabis cultivation area shall be in compliance with the current, adopted edition of the Washington State Building Code provisions regarding natural ventilation or mechanical ventilation (or its equivalents).

10. The medical cannabis cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

### **\_\_\_.03.005 Collective Gardens.**

A. No Nonconforming Status. Notwithstanding the provisions of Chapter \_\_ (Nonconforming uses and structures), an existing Collective Garden in operation as of the effective date of this Chapter shall be brought into full compliance with the provisions of this Chapter within one year of its effective date.

B. Location Restrictions. Collective Gardens may be established only in the following zoning districts and locations.

#### **1. *Collective Gardens in Outdoor Locations.***

a. Collective Gardens shall not be located outdoors in any zone other than the \_\_\_\_\_ zoning district.

b. *Separation:* Outdoor Collective Gardens shall not be located:

(i) within \_\_\_\_\_ feet of a youth-oriented facility, a school, park, church or residential treatment facility.

(ii) outdoors within \_\_\_\_\_ feet of any occupied legal residential structure located on a separate legal parcel.

#### **2. *Collective Gardens in Indoor Locations.***

(a) Indoor Collective Gardens shall not be located in any zone other than the following:

- (i) Industrial Use zone (IU);
- (ii) \_\_\_\_\_; and
- (iii) \_\_\_\_\_.

3. *Prohibited Areas.* In addition to the above, Collective Gardens shall not be allowed in the following areas:

- a. Indoors or outdoors within \_\_\_\_\_ feet of a youth-oriented facility, a school, a park, or any church or residential treatment facility;
- b. Outdoors within \_\_\_\_\_ feet of any occupied legal residential structure located on a separate legal parcel;
- c. Outdoors in a mobile home park within \_\_\_\_\_ feet of an occupied mobile home;
- d. Indoors or outdoors within \_\_\_\_\_ feet of any other Collective Garden; and
- e. In any location where the cannabis plants are visible from the public right of way or publicly traveled private roads.

4. The distance between the above-listed uses and the Collective Garden where the cannabis is being cultivated shall be measured in a straight line from the nearest point on the fence required by this chapter, or if the cannabis is cultivated indoors, from the nearest exterior wall of the building in which the cannabis is cultivated to the nearest boundary line of the property on which the facility, building or structure or portion of the facility, building or structure in which the above-listed use occurs is located. The distance in subsection (B)(3)(b) and (B)(3)(c) between the Collective Garden and any residential structure or mobile home shall be measured from the fence required in this chapter to the nearest exterior wall of the residential structure or mobile home.

5. *Accessory Uses.* Collective Gardens, located indoors or outdoors, shall not be allowed as an accessory use.

6. *Home Occupation Use Prohibited.* Collective Gardens, located indoors or outdoors, are prohibited as Home Occupations.

C. Operating Standards.

1. *Indoor or Outdoor Operation.* The following restrictions apply to the operation of Collective Gardens, whether they are located indoors or outdoors.

- a. *Odor.* The cultivation of cannabis shall not subject residents of neighboring parcels who are of normal sensitivity to objectionable odors.
  - b. *Lighting.* All lights used for the cultivation of cannabis shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel upon which they are placed.
  - c. *Noise.* The cultivation of medical cannabis in a Collective Garden shall not exceed the noise level standards as set forth in chapter \_\_\_\_ of the \_\_\_\_ Municipal Code.
  - d. *Visibility.* Cannabis shall not be grown or on display in any location where the cannabis plants are visible from the public right of way or a public place.
  - e. *Signage.* There shall be no exterior signage relating to the Collective Garden.
  - f. *Gas Prohibited.* The use of gas products (CO2, butane, etc.) for medical cannabis cultivation is prohibited.
  - g. *Compliance with Codes.* The Collective Garden shall be in compliance with the applicable provisions of the currently adopted edition of the Washington State Building Code.
  - h. *Nuisance.* The Collective Garden shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other adverse impacts, or be hazardous due to use or storage of materials, processes, products or waste.
2. *Outdoor Operation.* In addition to the operation restrictions in subsection C(1) above, the following restrictions apply to Collective Gardens located outdoors:
- a. *Lighting.* The use of light assistance for the outdoor cultivation of cannabis shall not exceed a maximum of six hundred (600) watts of lighting capacity per one hundred (100) square feet of growing area.
  - b. *Fencing.* All cannabis grown outside of any structure or building must be fully enclosed by a secure fence at least six (6) feet in height. The fence must include a lockable gate that is locked at all times when a qualified patient is not in the immediate area. Said fence shall not violate any other ordinance or code provision relating to height and location restrictions and shall not be constructed or covered with plastic or cloth except shade cloth may be used on the inside of the fence.
3. *Indoor Operation.* In addition to the operation restrictions in subsection C(1) above, the following restrictions shall apply to Collective Gardens located indoors:

a. *Limitation on Square Footage Devoted to Collective Garden.* The indoor Collective Garden shall be limited to no more than one hundred (100) contiguous square feet per legal parcel.

b. *Exterior Appearance.* The indoor Collective Garden shall be located in a structure within a fully enclosed and secure structure, as defined in subsection 00.01.002.

c. *Lighting.* Interior structure lighting, exterior structure lighting and driveway and/or parking area lighting shall be of sufficient foot-candles and color rendition so as to allow the ready identification of any individual committing a crime on site at a distance of no less than forty feet from the structure.

d. *Security.* Security measures at the Collective Garden shall include, at a minimum, the following:

(i) robbery and burglary alarm systems which are professionally monitored and maintained in good working condition;

(ii) exterior lighting that illuminates all exterior entrances;

(iii) deadbolt locks on all exterior doors; and

(iv) windows and roof hatches secured with bars on the windows so as to prevent unauthorized entry, and be equipped with latches that may be released quickly from the inside to allow exit in the event of an emergency.

D. *Delivery only among members.* No usable cannabis from the Collective Garden may be delivered to anyone other than one of the qualifying patients participating in the Collective Garden. Collective Gardens employees/volunteers or Collective Garden members may not sell any cannabis plants or usable cannabis. Such activities may be prosecuted under the Uniform Controlled Substances Act, chapter 69.58 RCW.

F. *No on-site sales of paraphernalia.* There shall be no on-site display or sale of paraphernalia used for the use or consumption of medical cannabis at the Collective Garden.

G. *Nuisance.* Nothing in this section (or this Chapter) shall be construed as a limitation on the City's authority to abate any violation which may exist from the cultivation of cannabis plants from any location, indoor or outdoor, including from within a fully enclosed and secure building.

#### **00.01.006 Violations.**

A. It is a violation of this Chapter for any person owning, leasing, occupying or having charge or possession of any parcel of land within any unincorporated area of the City/Town to cause or allow such parcel of land to be used for the indoor or outdoor cultivation

of marijuana or cannabis plants for medicinal purposes in excess of the limitations set forth herein.

B. The cultivation of more than the number of cannabis plants set forth in this Chapter on one legal parcel, either indoors or outdoors, within the City/Town, regardless of whether the persons growing the cannabis is/are a “qualified patient,” or members of a “collective garden” as defined herein, is hereby prohibited.

C. Any violations of this Chapter may be enforced as set forth in Chapter \_\_\_\_ (Enforcement of Zoning Code Violations), or as applicable, the Uniform Controlled Substances Act, chapter 69.58 RCW. In addition, violations of subsections A and b of this Section are deemed to be a public nuisance and may be abated by the City/Town under the procedures set forth in state law for the abatement of public nuisances.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 4. Effective Date. This ordinance shall be effective five days after publication of an approved summary, which shall consist of the title.

PASSED by the \_\_\_\_\_ Council of \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
MAYOR

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
City Clerk.

APPROVED AS TO FORM:  
Office of the City Attorney

\_\_\_\_\_  
City Attorney

PUBLISHED:  
EFFECTIVE DATE: